



General Assembly

January Session, 2005

Amendment

LCO No. 7585

SB0109307585SD0

Offered by:

SEN. MURPHY, 16th Dist.

To: Subst. Senate Bill No. 1093

File No. 410

Cal. No. 332

***"AN ACT CONCERNING REVISIONS TO THE DEPARTMENT OF
MENTAL RETARDATION STATUTES."***

1 Change the effective date of sections 2 and 4 to "Effective from
2 passage"

3 After the last section, add the following and renumber sections and
4 internal references accordingly:

5 "Sec. 501. Subsection (b) of section 5-270 of the general statutes is
6 repealed and the following is substituted in lieu thereof (*Effective July*
7 *1, 2005*):

8 (b) "Employee" means any employee of an employer, whether or not
9 in the classified service of the employer, except elected or appointed
10 officials other than special deputy sheriffs, board and commission
11 members, disability policy specialists assigned to the Council on
12 Developmental Disabilities, managerial employees and confidential
13 employees.

14 Sec. 502. Section 5-198 of the general statutes is amended by adding
15 subsection (cc) as follows (*Effective July 1, 2005*):

16 (NEW) (cc) Disability policy specialists employed by the Council on
17 Developmental Disabilities.

18 Sec. 503. Subsection (a) of section 17a-248b of the general statutes is
19 repealed and the following is substituted in lieu thereof (*Effective from*
20 *passage*):

21 (a) The lead agency shall establish a State Interagency Birth-to-Three
22 Coordinating Council and shall provide staff assistance and other
23 resources to the council. The council shall consist of the following
24 members, appointed by the Governor: (1) ~~[Six parents,]~~ Parents,
25 including minority parents, of children with disabilities twelve years of
26 age or younger, with knowledge of, or experience with, programs for
27 children from birth to thirty-six months of age with disabilities, the
28 total number of whom shall equal not less than twenty per cent of the
29 total membership of the council, and at least one of whom shall be a
30 parent of a child six years of age or younger, with a disability; (2) two
31 members of the General Assembly at the time of their appointment,
32 one of whom shall be designated by the speaker of the House of
33 Representatives and one of whom shall be designated by the president
34 pro tempore of the Senate; (3) one person involved in the training of
35 personnel who provide early intervention services; (4) one person who
36 is a member of the American Academy of Pediatrics; (5) one person
37 from each of the participating agencies, who shall be designated by the
38 commissioner or executive director of the participating agency and
39 who have authority to engage in policy planning and implementation
40 on behalf of the participating agency; (6) ~~[five approved]~~ public or
41 private providers of early intervention services, the total number of
42 whom shall equal not less than twenty per cent of the total
43 membership of the council; and (7) a representative of a Head Start
44 program or agency. The Governor shall designate the chairperson of
45 the council who shall not be the designee of the lead agency.

46 Sec. 504. (*Effective from passage*) On or before October 1, 2005, the
47 Department of Mental Retardation and the Office of Protection and
48 Advocacy for Persons with Disabilities shall jointly develop and
49 implement an interagency agreement governing communication and
50 collaboration between said agencies with regard to the investigation of
51 allegations of abuse and neglect of persons being served by said
52 agencies and the provision of protective services to such persons. On
53 or before January 1, 2006, such agreement shall be submitted, in
54 accordance with the provisions of section 11-4a of the general statutes,
55 to the joint standing committees of the General Assembly having
56 cognizance of matters relating to human services and public health.
57 Such agreement shall ensure that each office carries out investigative
58 responsibilities and the provision of protective services efficiently and
59 in a manner calculated to protect the best interests of persons with
60 disabilities, and shall include, but not be limited to:

61 (1) A statement of common goals and principles;

62 (2) Communication guidelines identifying the individuals within
63 each agency responsible for communicating information pertaining to
64 investigations of abuse and neglect and the provision of protective
65 services;

66 (3) Guidelines identifying the responsibilities of each agency with
67 respect to investigations of abuse and neglect and the individuals in
68 each agency who shall carry out such investigative responsibilities;

69 (4) Interagency documentation and reporting procedures;

70 (5) Operational safeguards and security and confidentiality
71 guidelines, in accordance with applicable federal privacy laws;

72 (6) Dispute resolution procedures; and

73 (7) Standards for reviewing and evaluating third party
74 investigations.

75

76 Sec. 505. Section 17a-210 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2005*):

78 (a) There shall be a Department of Mental Retardation. The
79 Department of Mental Retardation, with the advice of a Council on
80 Mental Retardation, shall be responsible for the planning,
81 development and administration of complete, comprehensive and
82 integrated state-wide services for persons with mental retardation and
83 persons medically diagnosed as having Prader-Willi syndrome. The
84 Department of Mental Retardation shall be under the supervision of a
85 Commissioner of Mental Retardation, who shall be appointed by the
86 Governor in accordance with the provisions of sections 4-5 to 4-8,
87 inclusive. The Council on Mental Retardation may advise the
88 Governor on the appointment. The commissioner shall be a person
89 who has background, training, education or experience in
90 administering programs for the care, training, education, treatment
91 and custody of persons with mental retardation. The commissioner
92 shall be responsible, with the advice of the council, for: (1) Planning
93 and developing complete, comprehensive and integrated state-wide
94 services for persons with mental retardation; (2) the implementation
95 and where appropriate the funding of such services; and (3) the
96 coordination of the efforts of the Department of Mental Retardation
97 with those of other state departments and agencies, municipal
98 governments and private agencies concerned with and providing
99 services for persons with mental retardation. The commissioner shall
100 be responsible for the administration and operation of the state
101 training school, state mental retardation regions and all state-operated
102 community-based residential facilities established for the diagnosis,
103 care and training of persons with mental retardation. The
104 commissioner shall be responsible for establishing standards,
105 providing technical assistance and exercising the requisite supervision
106 of all state-supported residential, day and program support services
107 for persons with mental retardation and work activity programs
108 operated pursuant to section 17a-226. The commissioner shall conduct
109 or monitor investigations into allegations of abuse and neglect and file

110 reports as requested by state agencies having statutory responsibility
111 for the conduct and oversight of such investigations. In the event of the
112 death of a person with mental retardation for whom the department
113 has direct or oversight responsibility for medical care, the
114 commissioner shall ensure that a comprehensive and timely review of
115 the events, overall care, quality of life issues and medical care
116 preceding such death is conducted by the department and shall, as
117 requested, provide information and assistance to the Independent
118 Mortality Review Board established by Executive Order No. 25 of
119 Governor John G. Rowland. The commissioner shall report to the
120 board and the board shall review any death: (A) Involving an
121 allegation of abuse or neglect; (B) for which the Office of Chief Medical
122 Examiner or local medical examiner has accepted jurisdiction; (C) in
123 which an autopsy was performed; (D) which was sudden and
124 unexpected; or (E) in which the commissioner's review raises questions
125 about the appropriateness of care. The commissioner shall stimulate
126 research by public and private agencies, institutions of higher learning
127 and hospitals, in the interest of the elimination and amelioration of
128 retardation and care and training of persons with mental retardation.

129 (b) The commissioner shall be responsible for the development of
130 criteria as to the eligibility of any person with mental retardation for
131 residential care in any public or state-supported private institution
132 and, after considering the recommendation of a properly designated
133 diagnostic agency, may assign such person to a public or state-
134 supported private institution. The commissioner may transfer such
135 persons from one such institution to another when necessary and
136 desirable for their welfare, provided such person and such person's
137 parent, conservator, guardian or other legal representative receive
138 written notice of their right to object to such transfer at least ten days
139 prior to the proposed transfer of such person from any such institution
140 or facility. Such prior notice shall not be required when transfers are
141 made between residential units within the training school or a state
142 mental retardation region or when necessary to avoid a serious and
143 immediate threat to the life or physical or mental health of such person

144 or others residing in such institution or facility. The notice required by
145 this subsection shall notify the recipient of his or her right to object to
146 such transfer, except in the case of an emergency transfer as provided
147 in this subsection, and shall include the name, address and telephone
148 number of the Office of Protection and Advocacy for Persons with
149 Disabilities. In the event of an emergency transfer, the notice required
150 by this subsection shall notify the recipient of his or her right to
151 request a hearing in accordance with subsection (c) of this section and
152 shall be given within ten days following the emergency transfer. In the
153 event of an objection to the proposed transfer, the commissioner shall
154 conduct a hearing in accordance with subsection (c) of this section and
155 the transfer shall be stayed pending final disposition of the hearing,
156 provided no such hearing shall be required if the commissioner
157 withdraws such proposed transfer.

158 (c) [The] Any person with mental retardation who is eighteen years
159 of age or older and who resides at any institution or facility operated
160 by the Department of Mental Retardation, or the parent, guardian,
161 conservator or other legal representative of any person with mental
162 retardation who resides at any [institution or facility operated by the
163 Department of Mental Retardation, or any person with mental
164 retardation himself or herself, who is eighteen years of age or older
165 and who resides at any] such institution or facility, may object to any
166 transfer of such person from one institution or facility to another for
167 any reason other than a medical reason or an emergency, or may
168 request such a transfer. In the event of any such objection or request,
169 the commissioner shall conduct a hearing on such proposed transfer,
170 provided no such hearing shall be required if the commissioner
171 withdraws such proposed transfer. In any such transfer hearing, the
172 proponent of a transfer shall have the burden of showing, by clear and
173 convincing evidence, that the proposed transfer is in the best interest
174 of the resident being considered for transfer and that the facility and
175 programs to which transfer is proposed (1) are safe and effectively
176 supervised and monitored, and (2) provide a greater opportunity for
177 personal development than the resident's present setting. Such hearing

178 shall be conducted in accordance with the provisions of chapter 54.

179 (d) [The] Any person, or the parent, guardian, conservator or other
180 legal representative of [a] such person, [or the person himself or
181 herself,] may request a hearing for any final determination by the
182 department [which] that denies such person eligibility for programs
183 and services of the department. A request for a hearing shall be made
184 in writing to the commissioner. Such hearing shall be conducted in
185 accordance with the provisions of chapter 54.

186 (e) Any person with mental retardation, or the parent, guardian,
187 conservator or other legal representative of such person, may request a
188 hearing to contest the priority assignment made by the department for
189 persons seeking residential placement, residential services or
190 residential support. A request for hearing shall be made, in writing, to
191 the commissioner. Such hearing shall be conducted in accordance with
192 the provisions of chapter 54.

193 [(e) The] (f) Any person with mental retardation or the parent,
194 guardian, conservator or other legal representative of [a] such person,
195 [or the person himself or herself,] may object to (1) a proposed
196 approval by the department of a program for such person [which] that
197 includes the use of behavior-modifying medications or aversive
198 procedures, or (2) a proposed determination of the department that
199 community placement is inappropriate for such person placed under
200 the direction of the commissioner. The department shall provide
201 written notice of any such proposed approval or determination to the
202 person, or to the parent, guardian, conservator or other legal
203 representative of such person, [or the person himself or herself,] at
204 least ten days prior to making such approval or determination. In the
205 event of an objection to such proposed approval or determination, the
206 commissioner shall conduct a hearing in accordance with the
207 provisions of chapter 54, provided no such hearing shall be required if
208 the commissioner withdraws such proposed approval or
209 determination.

210 Sec. 506. (NEW) (*Effective July 1, 2005*) In determining the service
211 component of the rates to be paid by the state under sections 17b-244
212 of the general statutes, as amended by this act, and 17b-246 of the
213 general statutes, as amended by this act, to private facilities and
214 facilities operated by regional education service centers that are
215 licensed to provide residential care pursuant to section 17a-227 of the
216 general statutes, but not certified to participate in the Title XIX
217 Medicaid programs as intermediate care facilities for persons with
218 mental retardation, the Commissioner of Mental Retardation shall
219 consider for each facility the actual wage and benefit costs for services
220 and service providers, adjusted for inflation, and said commissioner
221 shall not establish a single fixed amount for wage and benefit costs that
222 is applicable to all such facilities.

223 Sec. 507. Subsection (a) of section 17b-244 of the general statutes is
224 repealed and the following is substituted in lieu thereof (*Effective July*
225 *1, 2005*):

226 (a) The room and board component of the rates to be paid by the
227 state to private facilities and facilities operated by regional education
228 service centers which are licensed to provide residential care pursuant
229 to section 17a-227, but not certified to participate in the Title XIX
230 Medicaid program as intermediate care facilities for persons with
231 mental retardation, shall be determined annually by the Commissioner
232 of Social Services, except that rates effective April 30, 1989, shall
233 remain in effect through October 31, 1989. Any facility with real
234 property other than land placed in service prior to July 1, 1991, shall,
235 for the fiscal year ending June 30, 1995, receive a rate of return on real
236 property equal to the average of the rates of return applied to real
237 property other than land placed in service for the five years preceding
238 July 1, 1993. For the fiscal year ending June 30, 1996, and any
239 succeeding fiscal year, the rate of return on real property for property
240 items shall be revised every five years. The commissioner shall, upon
241 submission of a request by such facility, allow actual debt service,
242 comprised of principal and interest, on the loan or loans in lieu of
243 property costs allowed pursuant to section 17-313b-5 of the regulations

244 of Connecticut state agencies, whether actual debt service is higher or
245 lower than such allowed property costs, provided such debt service
246 terms and amounts are reasonable in relation to the useful life and the
247 base value of the property. In the case of facilities financed through the
248 Connecticut Housing Finance Authority, the commissioner shall allow
249 actual debt service, comprised of principal, interest and a reasonable
250 repair and replacement reserve on the loan or loans in lieu of property
251 costs allowed pursuant to section 17-313b-5 of the regulations of
252 Connecticut state agencies, whether actual debt service is higher or
253 lower than such allowed property costs, provided such debt service
254 terms and amounts are determined by the commissioner at the time
255 the loan is entered into to be reasonable in relation to the useful life
256 and base value of the property. The commissioner may allow fees
257 associated with mortgage refinancing provided such refinancing will
258 result in state reimbursement savings, after comparing costs over the
259 terms of the existing proposed loans. For the fiscal year ending June 30,
260 1992, the inflation factor used to determine rates shall be one-half of
261 the gross national product percentage increase for the period between
262 the midpoint of the cost year through the midpoint of the rate year. For
263 fiscal year ending June 30, 1993, the inflation factor used to determine
264 rates shall be two-thirds of the gross national product percentage
265 increase from the midpoint of the cost year to the midpoint of the rate
266 year. For the fiscal years ending June 30, 1996, and June 30, 1997, no
267 inflation factor shall be applied in determining rates. The
268 Commissioner of Social Services shall prescribe uniform forms on
269 which such facilities shall report their costs. Such rates shall be
270 determined on the basis of a reasonable payment for necessary
271 services. Any increase in grants, gifts, fund-raising or endowment
272 income used for the payment of operating costs by a private facility in
273 the fiscal year ending June 30, 1992, shall be excluded by the
274 commissioner from the income of the facility in determining the rates
275 to be paid to the facility for the fiscal year ending June 30, 1993,
276 provided any operating costs funded by such increase shall not
277 obligate the state to increase expenditures in subsequent fiscal years.
278 Nothing contained in this section shall authorize a payment by the

279 state to any such facility in excess of the charges made by the facility
280 for comparable services to the general public. The service component
281 of the rates to be paid by the state to private facilities and facilities
282 operated by regional education service centers which are licensed to
283 provide residential care pursuant to section 17a-227, but not certified
284 to participate in the Title XIX Medicaid programs as intermediate care
285 facilities for persons with mental retardation, shall be determined
286 annually by the Commissioner of Mental Retardation in accordance
287 with section 506 of this act."